**CTG Observer Members Issues tracker – 9 June 2017**

| **Issue** | **Status** |
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| **GIFT AID** | |
| **GADs/“gone aways”** | * HMRC published [new Gift Aid Declarations](https://www.gov.uk/guidance/gift-aid-declarations-claiming-tax-back-on-donations) (GADs) following consultation with the sector and limited research * New GADs should be used from April 2016, but charities can use up stocks of old GADs if they were printed before 21 Oct 2015 * Anecdotal evidence suggests a forthcoming review of enduring GADs. In danger of being undermined by new rules on retail Gift Aid and intermediaries as well as data protection requirements * CTG co-ordinated an informal meeting with Gift Aid managers to discuss issues relating to enduring GADs and “gone aways”. Members can refer to slides from the 2016 [CTG Tax Conference](https://www.charitytaxgroup.org.uk/news-events/past-events/tax-conference-2016/), in the section on “Practical Gift Aid issues” * CTG Gift Aid practical issues working group is pulling together data on cost of “gone aways” to assess scope for approaching HMRC * At 2017 [CTG Tax Conference](https://www.charitytaxgroup.org.uk/news-post/2017/ctg-tax-conference-2017-presentations-feedback/), officials highlighted the need for better donor education on whether donations were Gift-Aidable, in particular for donations to online platforms (£1m of incorrectly claimed Gift Aid every month) * HMRC proposing that online platforms incorporate three more detailed questions, to ascertain that donation is the donor’s own money: * I am donating my own money and the funds have not come from anyone else including family members or from an office or bucket collection * The money I am donating is not the proceeds from sales of goods or services or the sale of tickets * I have not received something in return for this donation such as an entry ticket to an event or a raffle ticket |
| **Gift Aid Small Donations Scheme** | * GASDS [extended to](https://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-8-the-gift-aid-small-donations-scheme#chapter-88-how-much-charities-can-claim) eligible donations up to £8,000 in April 2016 * CTG [responded](https://www.charitytaxgroup.org.uk/news-post/2016/ctg-response-gasds-consultation/) to the [consultation](https://www.gov.uk/government/consultations/gift-aid-small-donations-scheme) welcoming the value of the scheme but hoping that proposals to relax elements of the eligibility requirements would widen its accessibility and increase take-up * [Small Charitable Donations Act](http://services.parliament.uk/bills/2016-17/smallcharitabledonationsandchildcarepayments.html) passed unamended through both Houses and received Royal Assent on 16 January 2017. Proposals completely remove the two-year eligibility rule and the Gift Aid history requirement and allow contactless donations to be eligible * Proposals also reform the community buildings rules to allow donations received outside of the community building but within the same local authority area to qualify. CTG looking into some questions as to how this will affect charities like Scout troops * The Government has estimated that the changes will cost an additional £15m per year * HMRC to publish further guidance on GASDS and is keen to work with the sector to increase charities’ awareness of the scheme |
| **Retail Gift Aid** | * HMRC has published revised Retail Gift Aid [guidance](http://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-3-gift-aid#chapter-342-claiming-gift-aid-when-goods-are-sold-by-and-the-proceeds-gifted-to-charities). BDO/CRA launched new HMRC-approved best practice guidance on 9 June 2016. No *de minimis* limit of sale proceeds before an end of year letter has to be sent to a supporter, but HMRC has promised to review this * HMRC has amended its entry-level guidance on the Retail Gift Aid process operated by charity shops. We have been told by HMRC officials that this follows a number of calls to the charity helpline asking if the Retail Gift Aid process can be applied to items donated for sale at a charity fundraising auction, on the basis of this part of the guidance note. More detail is available [here](https://www.charitytaxgroup.org.uk/tax-update/3214/) |
| **Intermediaries** | * [Legislation introduced](http://www.legislation.gov.uk/ukpga/2015/11/enacted) to allow regulations to be made which give intermediaries a greater role in administering Gift Aid. Technical consultation, to which CTG [responded](https://www.charitytaxgroup.org.uk/wp-content/uploads/Gift-Aid-and-Intermediaries-consultation-CTG-Response.doc), closed on 6 October 2016. Regulations make it possible for intermediaries to essentially make a declaration on behalf of the donor, so that donors can give to multiple charities with only one declaration * CTG has welcomed changes, so long as they make the user journey simple, but has called for annual statements to remain optional * Separate work ongoing to improve Gift Aid take-up via SMS |
| **Donor Benefits** | * CTG [responded](http://www.ctrg.org.uk/files/?id=424) to the Government’s [Call for Evidence](https://www.gov.uk/government/consultations/call-for-evidence-simplifying-the-gift-aid-donor-benefit-rules), identifying a range of useful simplifications and calling for improved guidance * Summary of responses and formal [consultation](https://www.gov.uk/government/consultations/simplifying-the-gift-aid-donor-benefit-rules-consultation) on specific reform options published on 18 February 2016. CTG [responded](https://www.charitytaxgroup.org.uk/news-post/2016/ctg-responds-gift-aid-donor-benefits-consultation/) on 12 May 2016, reiterating the importance of a flexible solution, not a one-size-fits-all approach * The Government published [proposals](https://www.gov.uk/government/consultations/simplifying-the-gift-aid-donor-benefits-rules-further-consultation) on 11 November 2016. Due to a lack of consensus on the relevant value threshold question, it opened another consultation considering further options. CTG [responded](https://www.charitytaxgroup.org.uk/consultation/gift-aid-donor-benefits-proposals-consultation/) strongly in favour of having a spliced two-threshold approach – with different percentages on different elements of the donation and no low-value disregard * CTG also highlighted once again the need for clearer guidance, particularly on “in consequence” rule. HMRC committed to putting together a working group to consider these issues * Proposals will also legislate the effect of the four current ESCs. HMRC confirmed at 2017 CTG Tax Conference that this may not mean that the processes continue to work in exactly the same way, but that the effect will be the same |
| **Implications of Scottish tax devolution** | * CTG invited to participate in CTF working groups on 2016 on the options for Gift Aid in the event of divergence in income tax rates * Follows CTG meetings in Edinburgh and with Government and Scottish Government officials * MSPs have voted to keep Scottish income tax rate unchanged for the time being. Some favour a “wait and see” approach while others would prefer pre-emptive action * If this were to change, there would appear to be three possible reform options: to maintain Gift Aid as it relates to the basic rate of income tax in the rest of the UK, regardless of what happens to Scottish basic rate; to make Gift Aid a public expenditure measure, decoupling it from income tax; or to create Scottish rate of Gift Aid * The Scottish Government recently announced plans for a consultation on a second independence referendum, however it remains to be seen whether the significant losses incurred by the SNP in the 2017 UK General Election will affect this |
| **Higher rate** | * Concern by charities that it is complex for higher rate donors (particularly those using PAYE) to claim higher rate Gift Aid relief * Support from some parts of the sector for all of the higher rate relief to go to the donor, while other parts of the sector support all relief going to the charity. Research has found that relief is very important for the largest donors (small in number but high in value) but less of a driver for the bulk of higher rate donors. HMRC is undertaking further research into higher rate relief which was expected to be published by summer 2016. |
| **Gift Aid donations from subsidiaries** | * The Institute of Chartered Accountants in England and Wales (ICAEW) published a [technical release on the application of company law on distributions to donations by a company to its parent charity](http://www.icaew.com/~/media/Files/Technical/technical-releases/legal-and-regulatory/tech16-14bl-guidance-for-donations-by-a-company-to-its-parent-charity.pdf) in November 2014 * New [guidance](https://www.charitytaxgroup.org.uk/tax-update/996/) from ICAEW, HMRC and the Charity Commission has been published * Feedback to CTG suggests charity members have received conflicting advice from their advisors |
| **Gift Aid audits and penalties** | * CTG receiving evidence that HMRC is embarking on a new round of audits after a noticeable period of absence. Concern that HMRC’s approach is harsher than in the past – charities risk significant cost if penalised * CTG keen to receive feedback on individual experiences of audit process, to inform wider sector |
| **OTHER GIVING ISSUES** | |
| **Living Legacies** | * Philanthropy Impact interested in reviving Living Legacies concept, although Government appetite for the proposal is unknown * It could be presented to officials as a technical tweak that would help donors to maximize giving; or be a high profile political campaign. However, there is recognition that mass fundraising has received negative press and that this would need to be framed with this in mind * CTG to continue to attend working groups and review campaign documents |
| **Payroll giving** | * Reforms to the payroll giving scheme, fairly underwhelming and take-up still comparatively low. The Government has however supported the new [Geared for Giving Campaign,](https://www.charitytaxgroup.org.uk/news-post/2016/new-campaign-promote-payroll-giving/) which is designed to increase uptake of Payroll Giving. Information sharing largely [outsourced to the IoF](https://www.charitytaxgroup.org.uk/tax/employment-taxes/payroll-giving/) * Charities’ Aid Foundation (CAF) published [analysis](https://www.cafonline.org/about-us/media-office/more-than-1-billion-donated-to-charities-through-payroll-giving) of its Give As You Earn scheme, which has raised over £1.3bn in 30 years of existence despite certain obstacles meaning that uptake could still be improved |
| **Social investment**  **tax relief** | * SITR now implemented fully, but take-up seems fairly low (although there has been some [press coverage of a successful scheme](http://www.civilsociety.co.uk/finance/news/content/21310/social_investment_tax_relief_fund_raises_13m)) * Government has applied for state aid clearance for an enlarged SITR scheme, which may make it more attractive to investors/charities * Announced at Autumn Statement 2016, from 6 April 2017, social enterprises up to 7 years old will be able to raise up to £1.5 million through SITR |
| **BUSINESS RATES** | |
| **England** | * Government review of business rates reported at Budget 2016. HM Treasury published a [summary](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510497/PU1925_Business_rates_review.pdf) of the stakeholder evidence received and the Government’s response to the consultation Local authorities to retain 100% of rates and uniform business rates to be abolished * Government’s response to the review, as well as a [Culture White Paper](https://www.gov.uk/government/publications/culture-white-paper), confirmed that mandatory charity relief will be protected, but ongoing concerns about unintended consequences and pressure on discretionary relief once Las responsible for policy * Small Business Rates Relief to be permanently set at 100%, and thresholds increased. Changes to the administration of business rates to see more frequent revaluations (at least every 3 years) and making it easier for businesses to pay the taxes that are due via digital accounts * In 2017 Spring Budget, Government announced £300m fund for local authorities to offer discretionary relief to organisations particularly affected by recent valuation increase. This can be offered to charities, though given levels of relief from which the sector already benefits, it seems unlikely that LAs will choose to include charities |
| **Northern Ireland** | * Consultation on business rates closed 25 January 2016; CTG [responded](https://www.charitytaxgroup.org.uk/news-post/2016/review-northern-irelands-business-rates-system/) endorsing the responses by both CRA and CRUK * Consultation [report](https://www.finance-ni.gov.uk/sites/default/files/consultations/dfp/Review%20of%20NI%20Non-Domestic%20Rating%20System.pdf) released 21 March 2016. No changes to business rate reliefs for charities suggested. Recommendations that businesses be revalued every three years and that regional rates increase no more than inflation, to provide greater certainty for businesses * Then Finance Minister Máirtín Ó Muilleoir made it clear that charitable business rates relief would be included in the current review of the system * [Consultation](https://www.finance-ni.gov.uk/consultations/rates-rethink) on new proposals closed on 16 February 2017 and CTG again [responded](https://www.charitytaxgroup.org.uk/consultation/ctg-responds-review-business-rates-northern-ireland/) * Charity shop relief to be protected until April 2019, after which they will be charged up to 20% rates (to match the rate most charity shops in England pay) * Proposals also abolish exemption for University halls of residence, to level the playing field |
| **Scotland** | * The Scottish Government opened the Barclay review of Scottish Business Rates, calling for opinions on how the system should be re-designed * CTG responded reiterating the importance of charitable rates relief and endorsing the response by CRUK |
| **Wales** | * No recent developments |
| **EMPLOYMENT TAXES** | |
| **Apprenticeship Levy** | * [Introduced](https://www.charitytaxgroup.org.uk/tax/employment-taxes/apprenticeship-levy/) from 6 April 2017. The levy is set at 0.5% of an employer’s pay bill and is collected via PAYE. Employers receive an allowance of £15,000 effectively making the levy only payable on pay bills in excess of £3m. Employers in England able to reclaim the money via an [online apprenticeship service](https://www.charitytaxgroup.org.uk/news-post/2017/registration-open-online-apprenticeship-service/) account, which they can then only use to pay for apprenticeship training in England * Some suggestion from Conservative election manifesto that, if re-elected, the party would make it possible to spend funds on apprentice salaries * An HMRC [policy paper](http://www.gov.uk/government/publications/apprenticeship-levy) on the Levy, DfE [guidance](https://www.gov.uk/government/publications/apprenticeship-levy-how-it-will-work/apprenticeship-levy-how-it-will-work), and a House of Commons Library [briefing paper](http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7523) with a helpful FAQ section are all available * Following representations by CTG and others, regarding concerns about the connected charities rule, the Government will allow a group of connected employers to decide what proportion of the allowance each employer in the group will be entitled to * Government will apply a 10% top-up to monthly funds entering levy-paying employers’ digital accounts from April 2017. Employers may get more out the Levy than they pay in, but any gains may be offset by additional salary/employment costs * Employers will have 24 months in which to use funds. Unspent funds will be reallocated to other employers with capacity for additional training. In 2018 it will be possible for an organisation to transfer up to 10% of its unspent funds to another organisation in its sector/supply chain. CTG is calling on Government to consider making it possible to transfer all unspent funds * CTG [sent a letter](https://www.charitytaxgroup.org.uk/news-post/2016/ctg-writes-minister-state-apprenticeship-levy/) to Robert Halfon MP, Minister of State for Apprenticeships and Skills to highlight the disproportionate effect of the levy on the sector. CTG also called for volunteer costs and expenses to be included as legitimate ways of spending the Levy contributions, on the grounds that volunteers provide the increased productivity to the charity sector that the policy is aimed at creating. Stock answer received |
| **Apprenticeship Levy (devolved administrations)** | * Apprenticeship Levy applies to organisations in Scotland, Wales and Northern Ireland, but these organisations will not have digital accounts if their employees live exclusively in that devolved nation * Skills are a devolved issue, so each Government will spend its proportion of the Levy funds in its own way: * Scottish Government has [published](http://news.gov.scot/news/boost-for-apprenticeships) a report setting out how it intends to use the funds, namely continuing to expand the Scottish Modern Apprenticeship scheme * Welsh Government [launched](https://www.charitytaxgroup.org.uk/news-post/2017/welsh-government-publishes-apprenticeship-policy/) new apprenticeship policy, setting out aims within the context of the Levy. Primarily involves seeing 100,000 more apprenticeships over this Assembly term * Northern Ireland Executive still undeclared on how funds will be spent |
| **Employer-provided living accommodation** | * [Call for evidence](https://www.gov.uk/government/consultations/employer-provided-living-accommodation-call-for-evidence) closed 3 February 2016 assessing the merits of the exemption for employer-provided living accommodation * CTG responded to the consultation highlighting the value of the exemption for churches, schools, universities & heritage properties * Government to consider how BiKs (including accommodation) are valued for tax purposes. Consultation scheduled to open at Budget 2017 – but still awaited |
| **OTHER ISSUES** | |
| **Restitution Interest** | * New 45% corporation tax rate on “amounts taxed as restitution interest” introduced. CTG concerns about lack of consultation with charities who are unfairly caught by this legislation * Following meetings with HMT and HMRC, CTG [secured](https://www.charitytaxgroup.org.uk/news-post/2016/ctg-secures-charity-exemption-new-45-tax-restitution/) an exemption for charitable companies in April 2016. [Regulations](https://www.gov.uk/government/publications/corporation-tax-changes-to-part-8c-of-the-corporation-tax-act-2010-tax-on-restitution-interest-payments/corporation-tax-changes-to-part-8c-of-the-corporation-tax-act-2010-tax-on-restitution-interest-payments) laid 22 March 2017 |
| **Museums and galleries tax relief** | * Announced in the Autumn Statement 2015 that the Government would be “exploring with the sector the case for introducing a new tax relief for museums and galleries”. Supported by a commitment to maintain free access and a programme of grant funding * Announced in the Budget 2016 that eligibility criteria would be broadened. HMRC has updated [VAT Notice 998](https://www.gov.uk/government/publications/vat-notice-998-vat-refund-scheme-for-national-museums-and-galleries) to reflect these changes * CTG representatives attended an HMT working group to discuss the possible scope of the relief * As [announced](https://www.charitytaxgroup.org.uk/news-post/2016/museum-galleries-tax-relief-update/) at Autumn Statement 2016, the rates of relief will be set at 25% for touring exhibitions and 20% for non-touring exhibitions and the relief will be capped at £500,000 of qualifying expenditure per exhibition * Legislation removed from Finance Bill 2017 due to snap General Election. Expected to be reintroduced in the next Parliament |
| **Insurance Premium Tax** | * Announced at Autumn Statement 2016 that IPT will be increased to 12% from 1 June 2017. Was 5% in 2010, 6% in October 2015 - but now at 10% since October 2016. When it increases in June, it will have doubled in under two years * Concerns that it will eventually increase to match VAT standard rate of 20% * A sample of 30 charities in 2010/11 for the Charity Tax Map project found the total cost of IPT was £591,000 * CTG [researching](https://www.surveymonkey.co.uk/r/2BGWJF7) the cost of this increase to the charity sector. 100 charities so far (mostly small) show cost this year at over £1m |
| **Fit & proper persons test** | * HMRC [published](https://www.charitytaxgroup.org.uk/news-post/2017/hmrc-updates-fit-proper-persons-declaration-charity-managers/) updated guidance and helpsheet on the “fit & proper person” test on 9 March 2017 * Current [guidance](https://www.gov.uk/government/publications/charities-fit-and-proper-persons-test/guidance-on-the-fit-and-proper-persons-test) still does not link to the helpsheet and model declaration. CTG has posted them on the [website](https://www.charitytaxgroup.org.uk/tax/anti-avoidance/fit-proper-person-guidance/) |
| **RDEC** | * Universities and charities are currently unable to claim the Research and Development Credit, in line with original policy intention * CTG planning to renew representations on including charities, particularly given current Government’s proposals on R&D * Plans announced at Autumn Statement 2016 for Government to review the tax environment for R&D to look at ways to build on the introduction of the ‘above the line’ R&D tax credit |
| **Off-payroll workers in public sector** | * Legislation to shift responsibility from worker to hirer, for making sure the appropriate amounts of income tax and NICs are paid by public sector workers employed through a Personal Service Company * Organisations in the “public sector” will follow the definition of public sector according to the Freedom of Information Act. Some charities (mostly higher education facilities) have FoI responsibilities and will therefore be considered part of the public sector for the purposes of this legislation * **Read Susan Ball’s commentary on the new changes** [here](https://www.charitytaxgroup.org.uk/commentary/off-payroll-working-major-changes-april-2017/) |
| **Common Reporting Standard** | * Charities are specifically excluded from reporting requirements under FATCA. There is no such exemption from the [CRS](http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/) * Some charities will fall within the definition for CRS of an ‘Financial Institution’ (FI) where they are managed by another FI and more than 50% of their income is from investing in financial assets. These charities will have to register with HMRC and report on relevant payments that they make to those who are tax resident outside the UK. More details can be found on the CTG [website](https://www.charitytaxgroup.org.uk/tax-update/common-reporting-standard/) and in [Alana Petraske’s commentary](https://www.charitytaxgroup.org.uk/commentary/common-reporting-standard-top-10-tips-charities/) * CRS came into effect from 1 January 2016, so a charity that is an FI will have to collect data on financial accounts for the year to 31 December 2016 and report it to HMRC by 31 May 2017 * HMRC announced that charitable companies would not be included in the scope of CRS. CTG working to extend this to charitable trusts |
| **Making Tax Digital** | * Government published [MTD Roadmap](https://www.gov.uk/government/publications/making-tax-digital) in December 2015, setting out its plans to deliver a fully digital tax service by 2020 * Six consultations in November 2016 set out detailed plans on HMRC proposals. HMRC has now published a [Summary of Responses](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/587433/Making_Tax_Digital_-_Bringing_business_tax_into_the_digital_age_-_Summary_of_responses.pdf). Crucially, the Government has confirmed that it agrees and will therefore introduce legislation to **exempt charities from the Making Tax Digital requirements** * C**harities are simply exempt from these new reporting requirements. CTG is seeking clarification from officials on the process for charities managing their existing ongoing tax reporting requirements,** including the submission of nil-returns * However, the Government has decided that **charity trading subsidiaries should be within the scope of the Making Tax Digital obligations** * **CTG had called for trading subsidiaries to be included within the exemption** as a charity will often use a subsidiary to make its activities tax effective or to accommodate any trading activities – a requirement dictated by administrative, legal and financial practicalities * The charity is also responsible for the administration of the subsidiary and processes and staff resources will often be shared across the organisation. Therefore, if a charity subsidiary was required to comply with these rules, it would mean that the charity would have to operate two systems (which adds complexity) or consider maintaining digital records for the whole charity group, undermining the proposed exemption * **CTG also questions how this will work with a charity registered with its subsidiary in a VAT group**, with potential for extra complexity.**CTG will be looking to raise these concerns again with officials.** If the decision is taken to require charity trading subsidiaries to maintain digital records and update HMRC at least quarterly, **we believe it would be sensible to introduce some form of transitional period and consider a size threshold to protect smaller organisations** * Legislation removed from Finance Bill 2017 due to snap General Election. Expected to be reintroduced in the next Parliament |
| **Orchestra Tax Relief** | * New HMRC guidance has been published [here](https://www.charitytaxgroup.org.uk/tax-update/guidance-orchestra-tax-relief-published/) |
| **New £1 Coin** | * New 12-sided £1 coin entered circulation from 28 March 2017. New coin designed to be much harder to counterfeit * All old £1 coins need returning – either by being spent or directly to the bank – before 15 October 2017 when they lose their legal tender status * Businesses should be aware of how this change affects them, especially if they use coin-operated machines (self-service tills) |
| **Community Infrastructure Levy** | * Government commissioned an [independent review](https://www.charitytaxgroup.org.uk/press-release/charity-representatives-express-concern-community-infrastructure-levy-cil/) on the effectiveness of the Community Infrastructure Levy (CIL) whose report recomme**nds scrapping CIL and replacing it with a hybrid Local Infrastructure Tariff (LIT)** and s 106 for larger developments, alongside a possible new Strategic Infrastructure Tariff (SIT). Disappointingly, thereview recommends that there be “no (or very few) exemptions” * CTG working with sector partners to present a strong case in support of retaining a charity exemption for any successor tax |
| **VAT** | |
| **Brexit** | * VAT is a European tax and, following Brexit, there is a significant opportunity for charities to influence Government, either in working to protect existing zero rates or in lobbying to create new ones * CTG has been approached by the Brexit teams in HMRC and HM Treasury to make representations on the priorities for charities * CTG also working with the Office of Tax Simplification on its review of VAT, which has been established as a sort of roadmap for the post-Brexit system. CTG made two main proposals: * Implement refund scheme to remove irrecoverable VAT burden for charities * Extend reduced and zero rates to cover all supplies **to** charities, while protecting rates for supplies **by** charities |
| **European rates review** | * European Commission has published its [*Action Plan on VAT*](http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/action_plan/com_2016_148_en.pdf) *– Towards a single EU VAT area*, following the launch of the VAT [Roadmap](http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_taxud_005_vat_action_plan_en.pdf). It includes a review of existing VAT rates and structures and an assessment of the existing derogations in Member States * EC has now opened a [public consultation](https://ec.europa.eu/taxation_customs/consultations-get-involved/tax-consultations/public-consultation-reform-rates-vat-towards-modernised-vat-rates-policy_en) considering two broad options for the reform of the VAT rate system: the extension and regular review of the [list of zero and reduced rates](http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf), while keeping the standard rate at 15%; or the abolition of the list and the removal of the 15% minimum, granting greater discretion to Member States in setting their own rates * UK zero rates are invaluable to charities and must be protected. CTG made this point strongly in Budget submission. Under both options, currently existing reduced rates and derogations would be maintained and made available to all Member States * UK Government has already legislated for a VAT zero rate for women’s sanitary products, presuming its ability to do so * CTG worked with ECCVAT partners on [response](https://www.charitytaxgroup.org.uk/consultation/european-commission-consultation-vat-rate-reform/) to the review, highlighting option 2 as the more beneficial, assuming that appropriate safeguards were put in place to protect current zero- and reduced rates from which charities benefit |
| **Refund schemes** | * CTG committed to an incremental approach, keeping momentum behind refund schemes * CTG [Budget submission 2016](https://www.charitytaxgroup.org.uk/news-post/2016/ctg-budget-submission/) supported review of organisations that may actually be covered by s33 including Surf Life GB and providers of certain care/support services to the terminally ill/incapacitated * CTG welcomed announcement in Budget 2016 that the [eligibility requirements for VAT refunds for Museums and Galleries were to be broadened](https://www.gov.uk/government/publications/vat-refunds-for-museums-and-galleries) * Future target areas identified including war memorials, listed places of worship, rehabilitation services (prisoners/veterans) charitable services funded by local government and elements of care provision * Treasury officials have indicated that in theory further targeted refund schemes are possible although cost is a major obstacle with any proposals needing to demonstrate necessity and value for money |
| **Cost-sharing exemption** | * The Association of British Insurers is looking for ways of limiting the damage to intermediaries if the Andersen Consulting judgment of the CJEU has to be implemented. Agreed that CTG will support this campaign and attend meetings with HMRC as required * A more liberal interpretation of the [cost sharing exemption](http://www.hmrc.gov.uk/manuals/csemanual/Index.htm) could preserve its present scope * This is an opportunity for charities to get on the same bandwagon – it would be particularly useful if the Cost-Sharing Group does not have to be a separate legal entity making “contractual" cost sharing possible |
| **Grants, contracts/ sponsorship** | * HMRC is undertaking a review of its guidance on grants and contracts and sponsorship * CTG met officials and commented on initial drafts and feedback now expected later in 2017 |
| **CAIF** | * Read this article on the new Charities Authorised Investment Fund [here](https://www.charitytaxgroup.org.uk/commentary/charity-authorised-investment-fund-caif-launched-need-know/).  As the CAIF is an FCA authorised fund, it is considered a special investment fund and management fees will be exempt from VAT |
| **Temporary workers** | * FTT published decision in [*Adecco*](http://www.bailii.org/cgi-bin/markup.cgi?doc=/uk/cases/UKFTT/TC/2015/TC04743.html&query=adecco&method=boolean) rejecting its claim for over-paid VAT on temporary workers * The Upper Tribunal heard Adecco’s appeal in December 2016 and [dismissed](https://www.charitytaxgroup.org.uk/commentary/adecco-appeal-vat-temporary-workers-dismissed/) it. CTG waiting to see if Adecco decide to appeal again |
| **Charity funded equipment for medical uses** | * CTG and BUFDG have held productive discussions with HMRC on possible updates and improvements to [HMRC’s Public Notice 701/6](https://www.gov.uk/government/publications/vat-notice-7016-charity-funded-equipment-for-medical-veterinary-etc-uses) and guidance regarding charity funded equipment for medical and veterinary uses * HMRC does not have capacity to make the changes to the guidance at present, but have agreed that [members can follow the guidance in this note](https://www.google.com/url?q=https://www.charitytaxgroup.org.uk/wp-content/uploads/2015-07-09_Minutes-HMRC-CTG-BUFDG-mtg-med-vet-Z-R-notice_FINAL-2.docx&sa=U&ved=0ahUKEwjEtqCduq3RAhVlDMAKHXjNClcQFggFMAA&client=internal-uds-cse&usg=AFQjCNH3VU4AVJuXsVb-WeEmvIU3kIJ0dA) |
| **Direct Mail** | * HMRC [guidance](https://www.gov.uk/government/publications/vat-notice-70024-postage-and-delivery-charges/vat-notice-70024-postage-delivery-charges-and-direct-marketing) on direct marketing/delivered goods now updated regarding marketing services using printed matter * CTG negotiated a [transitional period](https://www.gov.uk/government/publications/revenue-and-customs-brief-10-2015-vat-direct-marketing-services-using-printed-matter/revenue-and-customs-brief-10-2015-vat-direct-marketing-services-using-printed-matter#transitional-arrangements), during which no retrospective action would be taken (ending 31 July 2015) * CTG understands that charities may face charges where their suppliers have faced assessments and VAT exclusive contracts are in place * CTG to continue to collect feedback on any interactions that suppliers have with HMRC, including assessments received/settlements reached * CTG to monitor wider developments, especially the future of Downstream Access |
| **Case tracker** | * **Adecco** – The FTT published its decision in [Adecco](http://www.bailii.org/cgi-bin/markup.cgi?doc=/uk/cases/UKFTT/TC/2015/TC04743.html&query=adecco&method=boolean) rejecting its claim for over-paid VAT on temporary workers. The Upper Tribunal heard Adecco’s appeal in December 2016 and [dismissed](https://www.charitytaxgroup.org.uk/commentary/adecco-appeal-vat-temporary-workers-dismissed/) it. A summary of the latest hearing by Deloitte can be read [here](https://www.charitytaxgroup.org.uk/commentary/update-adecco-temporary-workers-vat-case/) * **Association of Graduate Careers Advisory Services –** FTT [decision](https://www.charitytaxgroup.org.uk/news-post/2016/agcas-vat-exemption-case/) on applicability of VAT exemption re subscriptions to professional bodies * **Balhousie Holdings –**The FTT [held](https://www.charitytaxgroup.org.uk/tax-update/2684/) that Balhousie was not liable to a VAT self-supply charge arising from the sale & lease back of a new care home * **BFI –** The CJEU has delivered its opinion in this UK referral ([Case C 592/15](https://www.charitytaxgroup.org.uk/news-post/2017/cjeu-judgment-british-film-institute-bfi-case-vat/)). The Court found that the Directive must be interpreted as meaning that the concept of ‘the supply of certain cultural services’ leaves it to the Member States to decide which supplies of cultural services may be exempt from VAT * **Brockenhurst College** – The CJEU has given its decision in [Brockenhurst College case (C-699/15)](http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d2dc30d667f1d5a84fe242dfbfed9f91db3cbe49.e34KaxiLc3qMb40Rch0SaxyLb350?text=&docid=190325&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=115983), ruling that supplies made by students of a higher education establishment, for consideration and as part of their education, may be regarded as supplies ‘closely related’ to the principal supply of education and accordingly be exempt from VAT. This was despite the AG’s opinion from December 2016. Read more from Graham Elliott [here](https://www.charitytaxgroup.org.uk/commentary/vat-supplies-related-education-brockenhurst-college/) * **Caithness RFC** – The Upper Tribunal has released its [judgment](https://www.charitytaxgroup.org.uk/tax-update/caithness-rfc-vat-case/) in the appeal by HMRC in Caithness Rugby Football Club. The Upper Tribunal upheld the FTT’s decision and refused HMRC’s appeal holding that the designation ‘village hall’ required not only the provision of social or recreational facilities but also its management to be vested in the local community |
|  | * **Colaingrove** – Colaingrove has been given permission to appeal the [Upper Tribunal’s decision in favour of HMRC](http://www.ukvatadvice.com/wp-content/uploads/2015/04/2015-UKUT-0080-Colaingrove-Ltd.pdf) to the Court of Appeal (February 2017). The case concerns the VAT liability of verandahs sold with caravans, but has wider implications in respect of single/multiple supplies * **Friends of the EarthTrust**– The First-Tier Tribunal [held](https://www.charitytaxgroup.org.uk/tax-update/friends-earth-vat-case/) that certain payments made by a charity’s supporters were donations rather than consideration for any supply, with the result that VAT incurred on street fundraising costs was not recoverable * **Gravel Road Records –** FTT case which assesses the extent to which the old ‘Fisher’ tests could help charities argue that their activities are non-business, thus qualifying for the construction zero rate for new buildings. Read Graham Elliott's related commentary on "economic activity" [here](https://www.charitytaxgroup.org.uk/commentary/update-economic-activity/) * **Hallé Concert Society –** [First Tier Tribunal held](http://www.bailii.org/uk/cases/UKFTT/TC/2016/TC05067.html) that benefits to members constituted a supply within the scope of VAT, but that a philanthropic exemption applied, attributing a wider understanding of “philanthropy”. HMRC likely to appeal. Read Graham Elliott’s commentary [here](https://www.charitytaxgroup.org.uk/commentary/vat-members-subscriptions-philanthropic-exemption/) * **IANSYST – FTT** [case](https://www.charitytaxgroup.org.uk/tax-update/vat-case-zero-rating-equipment-disabled/) **on** zero rating of equipment for the disabled * **Imperial College – Upper Tribunal** [judgment](https://www.charitytaxgroup.org.uk/tax-update/imperial-college-vat-case/) **on the Combined Special Method relating to a Fleming claim** * **Kati Zombory-Moldovan –**Upper Tax Tribunal [case](https://www.charitytaxgroup.org.uk/commentary/update-hire-fees-stalls-fairs/) on hire fees for stalls at fairs that may have implications for some charities * **Life Services Ltd** – The [appeal](https://www.charitytaxgroup.org.uk/tax-update/2754/) related to supplies of welfare services by LIFE Services Ltd. The issue was whether they were to be treated as exempt from VAT under the provisions of Item 9 Group 7 Schedule 9 VAT Act 1994, or under the provisions of Article 132(1)(g) of the Principal VAT Directive. The FTT concluded that by recognising charities and not recognising the appellant, Item 9 breaches the principle of fiscal neutrality. As a result, the appellant’s supplies of welfare services were to be regarded as exempt * **Littlewoods**– Leave to appeal the [Court of Appeal’s decision](http://www.oeclaw.co.uk/images/uploads/documents/Littlewoods_v_HMRC_FINAL_21_05.pdf) to the Supreme Court approved (with the hearing due 3-6 July 2017). This case has major implications for compound interest claims * **Longridge on the Thames** **–**The case relates to VAT zero rating applicable to new buildings for charities. HMRC was successful in its appeal. See Graham Elliott’s commentary [here](https://www.charitytaxgroup.org.uk/commentary/longridge-thames-vat-case-implications-charities/) * **Luxembourg –** CJEU opinion in [(C-274/15) Commission v Luxembourg](http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d6a5ca3883285a49efa206e8c5b5ba45aa.e34KaxiLc3eQc40LaxqMbN4Pax4Pe0?text=&docid=190328&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=618767) found that Luxembourg’s legislation on independent groups of persons did not comply with the VAT Directive. This was in line with the original [AG Opinion](https://www.charitytaxgroup.org.uk/tax-update/ag-opinion-luxembourg-cost-sharing-exemption-case/), which had indicated that certain aspects of Luxembourg’s operation of the “cost-sharing exemption” were incompatible with EU law, resulting in services being incorrectly treated as exempt |
|  | * **MVM -**Following this CJEU case it is recommended that holding companies who are involved in the management of their subsidiaries effectively charge the members of the group for the management services. Read Dermot Rafferty's commentary [here](https://www.charitytaxgroup.org.uk/commentary/holding-companies-required-raise-management-fees-order-ensure/) * **St Andrew's College Bradfield–**Upper Tribunal [decision](https://www.charitytaxgroup.org.uk/tax-update/st-andrews-college-bradfield-vat-case/) which held that the sporting services supplied by two subsidiaries of a non-profit making body failed to qualify for VAT exemption as their constitutions did not contain any specific prohibition on the distribution of profits * **Sveda and Durham Cathedral** – The CJEU has published decisions in [Sveda](http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d5b71a8f04249c418eb4accd60a5bd5e29.e34KaxiLc3eQc40LaxqMbN4Oc30Se0?text=&docid=170303&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=650403), [Skandia](http://curia.europa.eu/juris/document/document.jsf?docid=157806&doclang=EN) and [Larentia + Minerva](http://curia.europa.eu/juris/document/document.jsf?text=&docid=165920&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=738144), with strong implications for policy relating to VAT reclaim on costs of acquiring and managing trading subsidiary entities, and the scope of the permissible membership of a VAT group. HMRC’s cost-component theory all but defeated by these cases. CTG has submitted a paper to HMRC on the implications of Sveda (available on request) and held a follow-up discussion with HMRC officials. The overall ‘message’ from HMRC is that they clearly regard Sveda as not applying ipso facto to charities, owing to charities having different motives to commercial operations. While we don’t think HMRC is going to change this view, in our meeting with them we maintained our stance that charities are, in principle, equally affected by the decision, and that charities will not be limited by any apparent concessions we might make to any other effect. A Business Brief may yet be published, but may wait for the outcome of other pending case law including [Durham Cathedral](https://www.charitytaxgroup.org.uk/commentary/durham-cathedral-vat-case-sveda-implications-charities/) * **University of Cambridge**– Court of Appeal hearing set for December 2017. HMRC seeking to reverse [Upper Tribunal’s decision](https://www.pumptax.com/wp-content/uploads/2015/06/cambridge9.6.15.pdf) in favour of Cambridge. The case relates to investment management fees * **University of Newcastle** –First Tier Tribunal [decision](https://www.charitytaxgroup.org.uk/news-post/2017/university-newcastle-vat-overseas-agents/) in relation to VAT on overseas agents * **Wakefield College –**There is no indication yet whether Wakefield College will appeal against the [Upper Tribunal’s decision](http://www.tribunals.gov.uk/financeandtax/Documents/decisions/HMRC-v-WakefieldCollege.pdf) in favour of HMRC. This case concerns the meaning of non-business use of a new building constructed by a charity further education (FE) college * **Wellcome Trust –**The [case](http://www.financeandtaxtribunals.gov.uk/judgmentfiles/j8833/TC04855.pdf) concerned the deduction of the VAT incurred on the acquisition and refurbishment costs under Lennartz. It is not yet known if the decision will be appealed * **ZipVit** – The Upper Tribunal [confirmed](https://www.charitytaxgroup.org.uk/tax-update/zipvit-vat-case/) that Royal Mail supplies that were wrongly exempted are not liable to deductible input tax seemingly because of the lack of the needed tax invoices |